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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

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**Part of
Public Record**

Ex Parte No. 711

**PETITION FOR RULEMAKING OF THE NATIONAL INDUSTRIAL TRANSPORTATION
LEAGUE**

**REPLY OF
CONSUMERS UNITED FOR RAIL EQUITY**

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July 21, 2011

REPLY OF CONSUMERS UNITED FOR RAIL EQUITY

Consumers United for Rail Equity ("CURE") hereby submits its Reply to the Petition for Rulemaking ("Petition") filed herein by the National Industrial Transportation League ("League").

Interest of CURE and Its Members

CURE is an incorporated, non-profit advocacy group with the single purpose of seeking rail policy favorable to rail-dependent shippers, many of which are referred to as captive rail customers or captive shippers. CURE is sustained financially by the annual dues and contributions of its members, who are individual rail-dependent rail customers and their trade associations. Included in CURE are electric utilities that generate electricity from coal, chemical companies, forest and paper companies, cement companies, agricultural entities, various manufacturers and national associations, including both trade associations and associations of governmental institutions whose members work to protect consumers. The issues that are the subject of the League's Petition potentially affect many, if not all, CURE members, because many of them have facilities that are served by only one Class I railroad, but, through reciprocal switching, could gain access to a second railroad and, thereby, may have access to transportation competition.

Argument

CURE supports in total the petition filed by the League. We agree that the issue of reciprocal switching is specifically included in the Staggers Rail Act of 1980 because Congress saw switching as critical to the competitive national freight rail system envisioned by the Act. In the initial implementation of the reciprocal switching provision, the Interstate Commerce Commission was on course to facilitate the competitive rail system that is the only workable option in a regulatory program that presumes deregulation. Unfortunately, the implementation of reciprocal switching has gotten off

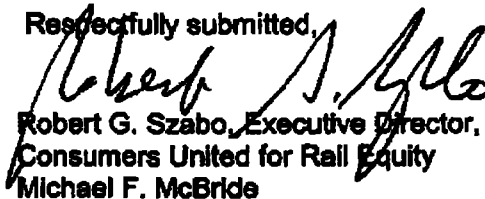
track over the years with the result that no party has even sought reciprocal switching relief from the federal regulator in over fifteen years.

CURE believes that the new competitive access rules proposed by the League's petition or similar provisions are one of the important changes, but not the only change, that the Board should make to ensure rail to rail competition in the national freight rail system. We believe that the new rules proposed by the League are a good starting point for public comment on this issue.

Conclusion

CURE encourages the Board to grant the League's Petition, institute a rulemaking proceeding by issuing for comment the proposed new Part 1145 of the Code of Federal Regulations, and, after notice and opportunity for comment, adopt the new Part 1145 of the Code of Federal Regulations in lieu of the current Ex Parte No. 445 rules.

Respectfully submitted,



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